

Gov. Carney, Delaware Congressional Delegation oppose House legislation that would change bankruptcy venue laws

WILMINGTON – Delaware Governor John Carney (D), U.S. Senators Tom Carper and Chris Coons (both D-Del.), and U.S. Representative Lisa Blunt Rochester (D-Del.) issued the following statement after U.S. Representatives Zoe Lofgren (D-Calif.) and Jim Sensenbrenner (R-Wis.) introduced legislation that would change bankruptcy venue laws.

Many American businesses, including more than two-thirds of those in the Fortune 500, incorporate in Delaware in order to access Delaware's world-class bench and bar with exceptional expertise in corporate legal issues and complex bankruptcies. The Lofgren-Sensenbrenner bill would hurt businesses across the country and deal a significant blow to Delaware's economy, risking thousands of jobs in the legal and business services sectors, as well as industries serving those traveling to Delaware for business.

"Companies from around the country choose to incorporate in Delaware specifically because of the expertise and experience of our judges, attorneys, and business leaders. Experienced bankruptcy courts and judges are critical to ensuring that restructurings preserve the underlying businesses and save jobs. Altering the venue laws that have been in place for decades and replacing them with restrictions undermines well-settled principles of corporate law, threatens jobs, and hurts our economy," said Governor Carney and Delaware's Congressional Delegation. "Our economy thrives when the

bankruptcy system is fair, predictable, and efficient. Denying most American businesses the ability to file for bankruptcy in the courts of their choice would damage the bankruptcy system and the national economy. This legislation is misguided, and we strongly oppose it."

The Lofgren-Sensenbrenner bill would limit companies' choices by eliminating domicile from the venue options permitted when filing a Chapter 11 case. This would upend decades of precedent allowing businesses to file for Chapter 11 in the jurisdiction where they are incorporated. Currently, Delaware attracts complex Chapter 11 cases from businesses that are incorporated in Delaware, and thus the bankruptcy judges in Delaware are experienced in handling these difficult restructuring cases. Study after study shows that experienced bankruptcy courts promote predictability and post-restructuring survival. The National Conference of Bankruptcy Judges considered the venue issue less than a year ago, and they declined to recommend any change to the venue statute. Under existing law, the United States Bankruptcy Court for the District of Delaware routinely grants transfer motions (granting 67.4% of non-duplicative adjudicated transfer motions since 2001), once again demonstrating that there is no justification for this dramatic proposed change.

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